

ASSEMBLY BILL

No. 1127

Introduced by Assembly Member Chau

February 22, 2013

An act relating to court interpreters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1127, as introduced, Chau. Court interpreters.

Existing law requires, when a witness is incapable of understanding the English language or expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter to be sworn to interpret for him or her. Existing law requires the Judicial Council to conduct a study of language and interpreter use and need in court proceedings, with commentary, and to report its findings and recommendations to the Governor and to the Legislature every 5 years. Existing law requires that this study serve as the basis for determining the need to establish interpreter programs and certification and for establishing these programs and examinations through the normal budgetary process.

This bill would declare the intent of the Legislature that every effort be made to recruit and retain qualified interpreters to work in the state courts, and that the Judicial Council make further efforts to improve and expand court interpreter services and address the shortage of qualified court interpreters.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) California is the most populous and demographically diverse
4 state in the nation, a meeting place of cultures, ethnicities, and
5 ideas unlike any other in the world. Of the state's 34 million people,
6 about 26 percent (roughly 8.8 million people) are foreign born.
7 Californians speak more than 220 languages, and 40 percent of
8 the state's population speaks a language other than English in the
9 home. This extraordinary diversity is among the state's greatest
10 assets and has helped make California an international leader in
11 business, the arts, entertainment, engineering, medicine, and other
12 fields. The state's diversity also poses unique challenges for the
13 delivery of government services, particularly for the courts.

14 (b) For Californians not proficient in English, the prospect of
15 navigating the legal system is daunting, especially for the growing
16 number of parties who do not have access to legal services and
17 therefore have no choice but to represent themselves in court,
18 which is a virtually impossible task for people who are unable to
19 understand the proceedings. Nearly seven million Californians
20 cannot access the courts without significant language assistance,
21 cannot understand pleadings, forms, or other legal documents,
22 cannot communicate with clerks or court staff, and cannot
23 understand or participate meaningfully in court proceedings, much
24 less effectively present their cases without a qualified interpreter.
25 People with limited English proficiency are also often members
26 of groups whose cultural traits or economic circumstances make
27 them more likely to be subjected to legal problems, in part because
28 perpetrators recognize their victims' limited ability to access
29 judicial protection. It is essential to provide English learners and
30 other non-English-speaking litigants with interpreters in order to
31 provide full and equal access to our justice system without regard
32 to language.

33 (c) The Legislature has previously recognized that the number
34 of persons with limited English proficiency in California is
35 increasing and recognized the need to provide equal justice under
36 the law to all California residents and the need to provide for their
37 special needs in their relations with the judicial and administrative
38 law systems. The Legislature has likewise recognized that the

1 effective maintenance of a democratic society depends on the right
2 and ability of its residents to communicate with their government
3 and the right and ability of the government to communicate with
4 them.

5 (d) Court interpreter services are a core court function. Our
6 judicial system relies on the adversarial process in which neutral
7 arbiters decide disputes based upon competing presentations of
8 facts and law. Conducting court proceedings when one party is
9 incapable of fully participating significantly impairs the quality
10 and efficiency of the process and its results, including compliance
11 with court orders.

12 (e) The inability to respond to the language needs of parties in
13 court impairs trust and confidence in the judicial system and
14 undermines efforts to secure justice for all. The authority of the
15 courts depends on public perceptions of fairness and accessibility.
16 Any significant erosion of public trust and confidence in the
17 fairness of judicial outcomes threatens the future legitimacy of the
18 legal system. By excluding a large segment of the population from
19 participation in an institution that shapes and reflects our values,
20 we threaten the integrity of the judicial process. Resentment
21 fostered by the inability to access the benefits of the court system
22 can ultimately impair enforcement of judicial decrees and attenuate
23 the rule of law.

24 (f) Reliance on untrained interpreters, such as family members
25 or children, can lead to faulty translations and threaten the court's
26 ability to ensure justice. Court interpretation is extremely difficult
27 and takes a rare combination of skills, experience, and training.
28 Apart from the possibility of fraud, unqualified interpreters often
29 fail to accurately and comprehensively convey questions and distort
30 testimony by omitting or adding information, or by stylistically
31 altering the tone and intent of the speaker, thereby preventing
32 courts from hearing the testimony properly. These problems
33 compromise the factfinding process and can result in genuine
34 injustice.

35 (g) California law currently mandates the appointment of an
36 interpreter for all witnesses in civil cases, and for parties with
37 hearing impairments. In addition, California statutes mandate the
38 appointment of an interpreter in adjudicative proceedings before
39 state agencies, boards, and commissions at no charge to the parties
40 whenever a party or the party's witness does not proficiently speak

1 or understand English. Other states, by contrast, provide both
2 witnesses and parties with a right to a court-appointed interpreter
3 in all civil matters at no cost to the party.

4 SEC. 2. The Legislature finds and declares that there continues
5 to be a shortage in the availability of certified and registered
6 interpreters in the state courts that impacts the state's ability to
7 provide meaningful access to justice for all court users. It is the
8 intent of the Legislature that every effort be made to recruit and
9 retain qualified interpreters to work in the state courts, and that
10 the Judicial Council make further efforts to improve and expand
11 court interpreter services and address the shortage of qualified
12 court interpreters.